Remarks

The Examiner has rejected claims 1-8, 13, 14, 17-20, and 22-25 under 35 U.S.C. §112, first paragraph for lack of enablement. The Examiner contends that the recitation of the term "vaccinate" requires that the methods of the invention result in the prevention or protection against a particular disease. Applicant has rebutted this rejection in their response of October 24, 2003, and in the Appeal Brief which is filed concurrently herewith.

Without acquiescing to the Examiner's rejection, and solely for the purpose of expediting an already lengthy prosecution, Applicant has amended the claims to delete all reference to "vaccinate" or "vaccine" and instead recite "A method for modulating an immune response in a mammal...". Support for this amendment is found throughout the specification, for example, on page 9, line 21 through page 10, line 2. Applicant submits that this amendment, taken together with Applicant's other arguments set forth in the prosecution history and in the Appeal Brief filed herewith should be sufficient to obviate the Examiner's rejection.

In addition, Applicant submits herewith a second Rule 132 Declaration by Dr. Andrew Segal providing additional working examples of compositions according to the invention in operation in a method of modulating an immune response in a mammal to an antigen. Specifically, the declaration ("the second Segal Declaration") teaches three different compositions for modulating an immune response in a mammal which fall under the claims of the invention, namely fibrosarcoma cells, B16F10 murine melanoma cells, and K1735 melanoma cells, and teaches that each of these cells when used to produce cytokine coated cells according to the invention, were successful in modulating an immune response in a host animal as evidenced by either a decrease or an absence of tumor formation.

Applicant submits that the amendment to the claims made herein, in combination with the teachings in the specification and the substantial additional data provided by the Applicant are more than sufficient to meet the enablement requirements under 35 U.S.C. §112, first paragraph. Applicant accordingly requests that the rejection be reconsidered and withdrawn.

Respectfully submitted,

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